

## **§ 54.1004**

an authorized Dairy Grading Branch employee in connection with determining compliance, evaluating, or reviewing equipment or utensils under the regulations, and any report made by an authorized employee of the Dairy Grading Branch of any other services performed pursuant to the regulations.

(c) “Official mark” or “other official identification” means any form of mark or other identification, including those prescribed in § 54.1018; used under the regulations in marking any equipment or utensils or displayed as an indication that the equipment or utensils has been evaluated by AMS (including the compliance of the equipment or utensils with applicable standards).

### **§ 54.1004 Administration and implementation.**

The Administrator designates the administration and implementation of the Certification of Sanitary Design and Fabrication of Equipment Used in the Processing of Livestock and Poultry Products service to the Dairy Grading Branch, Dairy Programs, Agricultural Marketing Service. The Chief is charged with the administration, under the general supervision and direction of the Deputy Administrator, of the regulations and the Act insofar as they relate to equipment or utensils used to process livestock and poultry products.

### **§ 54.1005 Basis of service.**

(a) Certification of Sanitary Design and Fabrication of Equipment Used in the Slaughter, Processing, and Packaging of Livestock and Poultry Products service shall be performed in accordance with the provisions of this subpart, the instructions and guidelines issued or approved by the Chief and the applicable standards developed by the NSF/3-A.

(b) Copies of standards developed by NSF/3-A that AMS will inspect and certify to are available, for a nominal fee, from NSF International at [www.nsf.org](http://www.nsf.org) or contact Techstreet, 310 Miller Avenue, Ann Arbor, MI 48103; Phone (800) 699-9277. Copies of all other instructions and guidelines can be obtained from, and copies of standards developed by NSF/3-A may be inspected at, the U.S. Department of Agriculture, Agricultural Marketing Service, Dairy

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Programs, Dairy Grading Branch; Room 2746-S; 1400 Independence Ave., SW., Washington, DC 20250-6456.

(c) All services provided in accordance with the regulations shall be rendered without discrimination on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status.

### **§ 54.1006 Kind of service.**

Certification of Sanitary Design and Fabrication of Equipment Used in the Slaughter, Processing, and Packaging of Livestock and Poultry Products service under the regulations shall consist of the evaluation, certification and/or identification, upon request by the applicant, of the adherence of the design and fabrication of equipment and utensils to sanitary principles and criteria under applicable standards identified in this subpart. Equipment or utensils having an identical design, materials of construction, and fabrication, except for scaling up or down in size, may be submitted for evaluation as a model line or series. Determination as to equipment or utensils compliance with standards for materials of fabrication or method of fabrication may be based upon information received from the fabricator.

### **§ 54.1007 Availability of service.**

Service under these regulations may be made available to the designers, fabricators, users, or other interested person or party, of the equipment or utensils. Subject to the provisions of this subpart, services shall be performed only when a qualified design review specialist is available, and when the location of the equipment or utensils, evaluation facilities and conditions, as determined by the Chief, are suitable for conducting such service.

### **§ 54.1008 How to obtain service.**

(a) *Application.* Any person may apply to the Chief for service under the regulations with respect to equipment or utensils in which the applicant is financially interested. The application shall be made on a form approved by the Chief. In any case in which the service is intended to be furnished at an establishment not operated by the

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applicant, the applicant shall be responsible for obtaining approval for accessibility of the equipment or utensil from the operator of such establishment and such approval shall constitute an authorization for any employees of the Department to enter the establishment for the purpose of performing their functions under the regulations. The application shall state:

(1) The name and address of the establishment at which service is desired;

(2) The name and post office address of the applicant;

(3) Identification of the party that will be responsible for payment of all services rendered in response to the request;

(4) The type of equipment or utensil presented for evaluation;

(5) The date(s) on which service is requested to be performed; and

(6) The signature of the applicant (or the signature and title of the applicant's representative) and date of the request.

(b) *Notice of eligibility for service.* The applicant for service will be notified whether the applicant's application is approved.

### § 54.1009 Order of furnishing service.

Service under the regulations shall be furnished to applicants, insofar as practicable and subject to the availability of a qualified design review specialist, in the order in which requests therefor are received, insofar as consistent with good management, efficiency and economy. Precedence will be given, when necessary, to requests made by any government agency and to requests for appeal service under § 54.1021.

### § 54.1010 When request for service deemed made.

A request for service under the regulations shall be deemed to be made when received by the Branch. Records showing the date and time of the request shall be maintained.

### § 54.1011 Withdrawal of application or request for service.

An application or a request for service under the regulations may be withdrawn by the applicant at any time before the application is approved or

prior to performance of service. The applicant shall be responsible for payment, in accordance with § 54.1028 and § 54.1029, of any expenses already incurred by the Agricultural Marketing Service in connection therewith.

### § 54.1012 Authority of agent.

Proof of the authority of any person making an application or a request for service under the regulations on behalf of any other person may be required at the discretion of the Deputy Administrator or Chief or other employee receiving the application or request under § 54.1008.

### § 54.1013 When an application may be rejected.

(a) An application or a request for service may be denied by the design review specialist, with the concurrence of the Deputy Administrator or Chief when:

(1) For administrative reasons such as the non-availability of personnel to perform the service;

(2) The application or request relates to equipment or utensils which are not eligible for service under § 54.1006;

(3) The applicant fails to meet either the application requirements prescribed in this subpart or the conditions for receiving such service;

(4) The equipment or utensil is owned by, or located on the premises of, a person currently denied the benefits of the Act;

(5) The applicant has substantial financial ties to a person who is currently denied the benefits of the Act, or who has been adjudged, in an administrative or judicial proceeding, responsible in any way for a current denial of benefits of the Act to any other person.

(6) The applicant is currently denied services under the Act.

(7) Any fees billed to the applicant are not paid within 30 days; or

(8) The applicant has failed to comply with the Act or this subpart or with the instructions or guidelines issued hereunder.

(b) The Chief shall provide notice to an applicant whose application is rejected, and shall explain the reason(s) for the rejection. If such notification is made verbally, written confirmation may be provided.